IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1965 OF 2005

IN

SUIT NO.1906 OF 1979

Smt.Shardagauri Kantilal Shah. ...Plaintiff

vs.

Smt.Sarojbala Naginlal Shah & others. ...Defendants

Mr.Rajiv Narula i/b. M/s.J.Narula & Associates, for Plaintiff.

Ms.Pratibha Mehta i/b. M/s.Little & Co. for Defendants.

CORAM: D.K.DESHMUKH, J.

DATED: 27th November,2006..

P.C.:-

1. It is obvious that when the court had passed order dated 16.6.2005 in this suit i.e. suit no.1906 of 1979, the Court was not pointed out that the affidavit of evidence has been filed in the suit no.1309 of 1981 and by order dated 15.12.2003 this suit was directed to be placed with that suit and the matter was adjourned for cross examination on 21.1.2004. It is doubtful whether the Court would

have passed order dated 16.6.2005 dismissing the suit for non prosecution had the court been pointed out the order dated 15.12.2003 passed in suit no.1309 of 1981. There is no dispute between the parties that suit no.1309 of 1981 and this suit are connected. In this view of the matter therefore, in my opinion, it will not be appropriate to dismiss the suit of the plaintiff for non prosecution. The notice of motion is therefore, granted in terms of prayer clause (a). Notice of motion is disposed of.